

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

IN RE:

RICKIE BEAVERS, SR. & MELODY REGINA
BEAVERS,

Debtors,

**ADVERSARY COMPLAINT
SEEKING LIEN AVOIDANCE OF
WHOLLY UNSECURED LIEN**

Case No.: 12-13824-CMA

Adversary No.

RICKIE BEAVERS, SR. & MELODY REGINA
BEAVERS,

Plaintiff,

v.

RBS CITIZENS NA

Defendant.

ADVERSARY COMPLAINT SEEKING

LIEN AVOIDANCE OF WHOLLY UNSECURED LIEN

NOW COMES, the Plaintiffs, Rickie Beavers, Sr. & Melody Regina Beavers, by and through their attorney, Jonathan Smith of Advantage Legal Group, and for the purpose of this complaint allege the following:

1. This adversary proceeding arises out of Plaintiff's Chapter 13 case now pending before this Court. This Court has jurisdiction to consider the matters herein pursuant to 28 U.S.C. §§ 157 and 1334 and 11 U.S.C § 506 and 1322. This is a core proceeding under 28 U.S.C. §§ 157(b)(2)(A), (B), (K), and (O).

**ADVERSARY COMPLAINT SEEKING LIEN AVOIDANCE
OF WHOLLY UNSECURED LIEN - 1 of 3**

ADVANTAGE LEGAL GROUP
12207 NE 8th Street
Bellevue WA 98005

1 2. Plaintiffs are a natural person(s) living in Seattle, King County, Washington.

2
3 3. Defendant Springleaf Financial is a corporation licensed to do business, and actually doing
4 business within the State of Washington.

5 4. Plaintiffs are the owner of a parcel of real estate located in Seattle, King County, Washington:
6 (1) commonly described as 12015 Renton Avenue S, Seattle, WA 98178 (2) legally described as
7 SKYWAY PARK ADD, (3) and parcel number 781280-1260.

8 5. Prior to the filing of this bankruptcy case, Plaintiffs allegedly executed a junior lien in favor of
9 Cco Mortgage Corp. or RBS Citizens, NA who filed a proof of claim, or Defendant's predecessor,
10 evidencing a loan by Defendant RBS Citizens, NA.

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12 6. On the date of filing of Plaintiffs' Chapter 13 Petition, April 13, 2012, Plaintiffs were allegedly
13 indebted to RBS Citizens, NA or its successors and/or assigns under such instrument in the
14 approximate sum of \$24,877.00 for the junior lien.

15 7. On the date of filing of Plaintiffs' Chapter 13 Petition, the value of Plaintiffs' real property
16 described above was \$132,000.00 per the www.zillow.com's estimated value of the home, and as
17 stated in Schedule A of Plaintiff's/Debtor's bankruptcy. On that date, the debt owing to first
18 mortgage holder, Chase was approximately \$196,405.00 and approximately \$24,877.00 to the
19 second mortgage holder, RBS Citizens, NA.

20 9. No equity in Plaintiffs' real property exists to which Defendant's lien can attach. Therefore,
21 pursuant 11 U.S.C. §§ 506 and 1322, and in re Zimmer, 313 F.3d 1220 (9th Cir. 2002), Plaintiff is
22 entitled to "strip off" the lien held by Defendant so that such lien becomes voided and no longer
23 remains a lien against Plaintiff's real property.

24
25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiffs prays for a judgment and order voiding the Defendant's deed of trust,
27 adjudging that the note is no longer secured by the deed of trust against the above-described real
28 property unless this Chapter 13 case is later dismissed prior to discharge, and for such other and
further relief as this Court might deem just and equitable.

**ADVERSARY COMPLAINT SEEKING LIEN AVOIDANCE
OF WHOLLY UNSECURED LIEN - 2 of 3**

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Respectfully submitted this 28th day of August, 2019.

/s/ Jonathan Smith
Jonathan Smith, WSBA #27372
Attorney for Plaintiffs/Debtors,